

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

MATTHEW JACKSON V. STATE OF TENNESSEE

**Appeal from the Criminal Court for Davidson County
No. 2001-A-386 Steve R. Dozier, Judge**

No. M2007-00385-CCA-R3-PC - Filed August 27, 2007

This matter is before the Court upon the State's motion to dismiss or in the alternative to affirm the judgment of the trial court by memorandum opinion pursuant to Rule 20, Rules of the Court of Criminal Appeals. Petitioner has appealed the trial court's order dismissing his petition for post-conviction relief in which Petitioner alleged that his guilty plea was based on a coerced confession, he was denied the right to counsel, he was denied the right to speedy trial, evidence was obtained unconstitutionally, and the trial court made factual conclusions that were not supported by the record. Upon a review of the record in this case, we are persuaded that the trial court was correct in summarily dismissing the petition for post-conviction relief and that this case meets the criteria for affirmance pursuant to Rule 20, Rules of the Court of Criminal Appeals. Accordingly, the State's motion is granted, and the judgment of the trial court is affirmed.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Trial Court is Affirmed.

JERRY L. SMITH, J., delivered the opinion of the court, in which DAVID H. WELLES, and ROBERT W. WEDEMEYER, JJ., joined.

Matthew Melson Jackson, Pro Se, Tiptonville, Tennessee.

Robert E. Cooper, Jr., Attorney General & Reporter; Elizabeth Bingham Marney, Assistant Attorney General, for the appellee, State of Tennessee.

OPINION

After being indicted on six counts of aggravated robbery in Davidson County, Petitioner pled guilty to two counts of aggravated robbery on May 12, 2005, and received an effective eight-year sentence in the Department of Correction. *State v. Matthew Melton [Jackson]*, No. M2005-01374-CCA-R3-CD, 2006 WL 1896350, at *1 (Tenn. Crim. App., at Nashville, Jul. 7, 2006), *perm. app. denied*, (Tenn. Nov. 13, 2006). As part of his plea, Petitioner explicitly reserved, with the consent

of the trial court and the State, a certified question of law: whether he was denied his federal and state constitutional rights to a speedy trial. On appeal, this Court determined that Petitioner's right to a speedy trial was not violated and that the trial court did not err by denying the motion to dismiss the indictment. *State v. Matthew Melton [Jackson]*, 2006 WL 1896350, at *6.

Subsequently, on December 19, 2006, Petitioner filed a *pro se* petition for post-conviction relief. In that petition, he argued that he was denied the right to counsel because his confession was taken without a proper waiver of his Fifth, Sixth, and Fourteenth Amendment rights; evidence used against him was obtained by an unconstitutional search and seizure; the factual conclusions of the trial court regarding the suppression issues were not supported by the record; his right to speedy trial was violated; and his plea was the result of a coerced confession and violation of his rights against self-incrimination. The post-conviction court dismissed the petition without a hearing after determining that Petitioner had waived all issues with the exception of the speedy trial issue by virtue of his guilty plea and that the speedy trial issue was previously determined on appeal.

Petitioner appealed, arguing that the post-conviction court improperly dismissed his petition without a hearing. On appeal, he raises only one issue: "Whether [Petitioner] was denied a speedy trial thus denying him the protection guaranteed by the Sixth Amendment to the United States Constitution: [sic] by Article 1, section 9 of the Tennessee Constitution, and by § 40-14-101 of the Tennessee Code Annotated."

The law is well-settled. Under T.C.A. § 40-30-206, the trial court shall enter an order dismissing the petition for post-conviction relief if, *inter alia*, it appears the ground asserted for relief has been previously determined on the merits by a court of competent jurisdiction. T.C.A. § 40-30-206(h). The trial court properly observed that the speedy trial issue was resolved by this Court on appeal. *See Matthew Melton [Jackson]*, 2006 WL 1896350, at *6. Furthermore, even though Petitioner appears to have abandoned his other claims on appeal, Petitioner's remaining grounds for relief were nonetheless waived when he entered his guilty plea. The Tennessee Supreme Court has consistently held that the entry of an informed and counseled guilty plea constitutes an admission of all of the facts and elements necessary to sustain a conviction and a waiver of any non-jurisdictional defects or constitutional irregularities. *See State v. McKinney*, 74 S.W.3d 291, 306 (Tenn. 2002) (citing *State v. Carter*, 988 S.W.2d 145, 148 (Tenn. 1999); *State v. Pettus*, 986 S.W.2d 540, 542 (Tenn. 1999)).

Rule 20, Rules of the Court of Criminal Appeals provides *inter alia*:

The Court, with the concurrence of all judges participating in the case, when an opinion would have no precedential value, may affirm the judgment or action of the trial court by memorandum opinion rather than by formal opinion, when:

The judgment is rendered or the action taken in a proceeding before the trial judge without a jury, and such judgment or action is not a

determination of guilt, and the evidence does not preponderate against the finding of the trial judge. . . .

We determine that this case meets the criteria of the above-quoted rule and, therefore, we grant the State's motion filed under Rule 20. We affirm the judgment of the trial court.

JERRY L. SMITH, JUDGE